

REMARKS

The Office Action of November 22, 2005 has been received and reviewed. Claims 2, 11, and 16 were previously canceled without prejudice or disclaimer. Claims 1, 3, 6, 10, 12, 17, and 22 have been amended herein without prejudice or disclaimer. All of the pending claims 1, 3-10, 12-15, and 17-22 are presented herein. All pending claims stand rejected. Reconsideration is respectfully requested.

The amendments to the claims 3, 12, and 17 find support throughout the specification and in particular from the claims prior to amendment.

The amendments to claims 1 and 22 find support throughout the specification and in particular from paragraphs 15 and 23.

The amendment to claims 6 and 10 were to correct typographical errors.

Applicants extend their thanks to the Examiner for reconsidering and withdrawing the restriction requirement.

Claims 1 and 22 stand rejected under 35 USC §112, ¶6, as allegedly failing to comply with the means plus function claim format. Applicants have rewritten claims 1 and 22 to remove the reference to means, thereby rendering the rejection moot. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

Claims 1, 3-7, 12, 17 and 22 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended claims 1 and 22 adding the elements that an “isolated” nucleic acid sequence is “transformed” into the plant’s genome. Applicants respectfully request reconsideration and withdrawal of the rejection in light of this response and amendments. Claims 3, 4, and 5 are dependent upon claim 1 and therefore allowable.

Claims 3, 12, and 17 are further amended to remove elements from the claims and leave the broader element of “members of the *Gramineae*”. Accordingly, Applicants respectfully

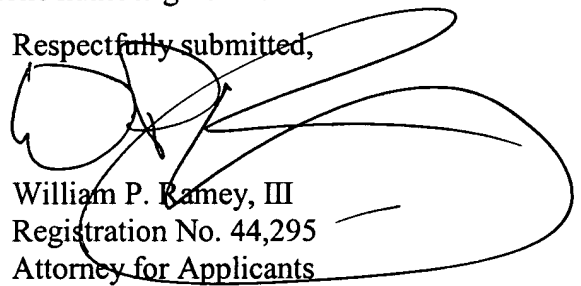
request reconsideration and withdrawal of the rejection.

Claims 1, 3-10, 12-15, and 17-22 stand provisionally rejected on the ground of non-statutory double patenting over claims 2-14, 16, and 18-24 of co-pending Application No. 10/222,075. Applicants are respectfully filing a terminal disclaimer. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

If questions remain after consideration of the foregoing, the Office is kindly requested to contact Applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



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Enclosures: Terminal Disclaimer